IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

SUMMONS FOR JUDGMENT NO. 33 OF 2005
IN
SUM. SUIT NO.3279 OF 2004

Vinny Impex Pvt. Ltd. Plaintiffs
vs.
West Coast Industries & ors. Defendants

Mr.Vikrant Deshpande for the plaintiffs.

Mr.Shailesh Redekar for the defendants 1 and 6.

CORAM : S.U. KAMDAR,J.

DATED : 24th October 2005

P.C.

The present suit is filed for goods sold and delivered. The claim amount is a sum of Rs.1,37,942/-. The only defence raised is that in respect of the purchase of the goods, purchase order was for nylon taslone fabric, whereas the goods supplied are polyester fabric. However, in my view, the said defence has no merit. The goods are supplied in 2003. Right upto 2005 neither the goods are returned nor any letter has been written by the defendant to the plaintiff stating that the goods supplied by them are not as per the specification. However, the learned counsel for the defendant states that the goods are sold because of the water logging due to heavy rain on 26th July, 2005. In my view, in the circumstances aforesaid, there is no defence in the present suit. However, with a view to give opportunity to the defendants to defend the Suit, I

direct the defendants to deposit a sum of Rs.1,30,000/- in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree. The amount, if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. If the amount is so deposited, the undertaking given in Notice of Motion No.2234/2005 to stand vacated. If the amount is not so deposited, the undertaking to continue. Summons for judgement disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written statement or points of defence to be filed within four weeks from the date of deposit. Affidavit, list of documents to be filed within four weeks thereafter. Inspection and discovery within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.

(S.U. KAMDAR,J.)